

**[COMMITTEE PRINT]**

THE USE AND  
APPLICATION OF THE  
LINE ITEM VETO

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HOUSE COMMITTEE ON RULES

JANUARY 2, 1997



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*Regarding the veto power . . .*

*"But the power in question has a further use. It not only serves as a shield to the executive, but it furnishes an additional security against the enactment of improper laws. It establishes a salutary check upon the legislative body, calculated to guard the community against the effects of faction, precipitancy, or of any impulse unfriendly to the public good, which may happen to influence a majority of that body . . . The primary inducement to conferring the power in question upon the executive is to enable him to defend himself; the secondary one is to increase the chances in favor of the community against the passing of bad laws, through haste, inadvertence, or design. The oftener the measure is brought under examination, the greater the diversity in the situations of those who are to examine it, the less must be the danger of those errors which flow from want of due deliberation, or of those missteps which proceed from the contagion of some common passion or interest."*

ALEXANDER HAMILTON,  
*Spring of 1788,*  
*The Federalist Papers,*  
*Number 73*



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## I. INTRODUCTION

On April 9, 1996, President Clinton signed into law the Line Item Veto Act of 1996. Public Law 104–130 delegates to the President carefully defined authority to cancel dollar amounts of discretionary spending, items of new direct spending, and limited tax benefits. Its provisions take effect on January 1, 1997, and sunset on December 31, 2004.

The Line Item Veto Act establishes clear boundaries and requirements for the use of this new authority by the President. It also outlines expedited legislative procedures for congressional action to disapprove the President's line item veto.

The Budget and Impoundment Control Act of 1974 already delegates authority to the President to rescind appropriated funds with congressional approval. The Line Item Veto Act establishes a new Part C under Title X which supplements the existing rescission authority (Part B of Title X) with this new cancellation authority. The existing rescission authority is based on an approval model while the new line item veto authority is based on a disapproval model.

The basic premises behind the Line Item Veto Act are fairly well understood: (1) to help reduce the federal deficit by providing the President with the authority to cancel specific spending and tax provisions within a large bill he has signed into law; and (2) to shift the bias in the legislative process away from spending and toward saving by requiring congressional disapproval in order to nullify a President's line item veto. The concept of the line item veto has long been supported by a majority of the American people.

Despite the clarity of purpose behind the line item veto, the mechanics of its implementation are of necessity somewhat more complicated and are, therefore, less well understood. The federal budget process is highly technical and involves a delicate balance between the executive and legislative branches of government. Much care was taken to ensure that the line item veto is properly integrated into that process and does not unduly upset that balance.

In addition, while 43 state governors have used some form of the line item veto, it has never before been used at the federal level. As a result, Members of Congress, Administration officials, and the public will all be traveling on new ground as this important budgetary tool takes effect.

The House Rules Committee played a significant role in crafting the Line Item Veto Act, exercising its original jurisdiction throughout the process of House passage and conference with the Senate. In addition, the Committee intends to provide ongoing oversight over the application of the line item veto authority. The Committee presents this document as a guide to the use and application of the line item veto, with a particular focus on the procedural requirements of Public Law 104–130. This document addresses the basic questions pertaining to the operation of the line item veto and is

not intended to be an exhaustive analysis of all possible issues raised by the new law.

## II. REQUIREMENTS FOR USE OF THE LINE ITEM VETO

### A. TARGETS OF THE LINE ITEM VETO ARE CAREFULLY DEFINED

The line item veto authority *may only* be used to cancel, in whole: (1) dollar amounts of discretionary budget authority; (2) items of new direct spending; and (3) limited tax benefits. Each of these terms is expressly defined by the Line Item Veto Act. The line item veto authority is only applicable to laws that contain one or more provisions falling within the definition of the three terms. In order to prevent an endless loop, the President may not use the line item veto authority on any law disapproving a President's cancellation(s).

#### *Dollar Amount of Discretionary Budget Authority*

In defining "dollar amount of discretionary budget authority", the Line Item Veto Act allows the President to cancel the entire dollar amount of budget authority specified in an appropriation law or required to be made available by a specific proviso in an appropriation law if a specific dollar amount is not included. For example, in the appropriation law that includes funding for the Army Corps of Engineers, the statute might require that \$1 billion be spent on a dredging project. Alternatively, the statute might require that a particular dredging project be completed without specifying the dollar amount necessary. Under the Line Item Veto Act, the President could cancel the entire funding for the project in either case.

The President may also cancel an entire dollar amount of budget authority represented separately in any table, chart or explanatory text in the statement of managers accompanying the conference report on an appropriation law. If the statement of managers incorporates by reference a table, chart or an explanatory text in a related House or Senate report, the President may cancel an entire dollar amount detailed in such a chart, table or text in that "governing report".

In addition, the President may cancel the entire dollar amount of budget authority required to be made available for a specific program, project or activity in a law other than an appropriation law. For example, if a Coast Guard authorization law specifically requires the purchase of a new particular type of cutter and the subsequent appropriation law includes a lump sum of funding for the purchase of all new Coast Guard cutters, then the President may cancel from that appropriation law the dollar amount necessary to purchase the particular cutter that was previously mandated to be purchased. In other words, the President may "look through" an appropriation law to an underlying statute in the case where that statute requires that funding for a specific program, project or activity be made available.

The President may also cancel the entire dollar amount of budget authority specified by a provision in an appropriation law that requires the procurement of a specified number of items at a certain cost. In calculating this amount, the President must estimate the cost of one such item and multiply it by the number of items speci-

fied. For instance, an appropriation law may include \$10 billion for the purchase of a certain type of plane. If so, the President may cancel the entire dollar amount for those planes. If the law specifies no dollar amount but requires the purchase of ten such planes, then the President may also cancel the dollar amount necessary to carry out that provision.

The express intent of this definition is to provide the President the ability to cancel entire dollar amounts, even if not specified as a dollar amount in the appropriation law itself, as long as the dollar amount can be clearly identified.

The definition of “dollar amount of discretionary budget authority” specifically excludes any restriction, condition or limitation in an appropriation law or the accompanying statement of managers. The cancellation authority may not be used to change, alter, modify, or terminate any policy included in the law by Congress, other than by canceling a dollar amount in order to reduce the federal deficit. Specific examples of what qualifies as a dollar amount of discretionary budget authority can be found on pages 30–36 of the conference report on S. 4, the Line Item Veto Act (H. Rept. 104–491).

#### *Item of New Direct Spending*

In defining “item of new direct spending”, the Line Item Veto Act provides the President with the authority to cancel budget authority provided by law (other than an appropriation law), new entitlement authority, and changes in the food stamp program. The President may only cancel a provision of law that results in an increase in spending relative to the baseline. This does not mean that legislation must result in a net increase in spending in order to be subject to the cancellation authority. A provision of law that increases direct spending would be subject to the line item veto regardless of whether or not it is offset by another provision that reduces direct spending or increases revenues in the same law. The President may not seek to cancel a provision that does not lead to an increase in direct spending nor may he apply the line item veto to previously enacted laws. This primarily applies in cases where Congress is expanding an existing entitlement or creating a new one.

#### *Limited Tax Benefit*

The Line Item Veto Act defines the term “limited tax benefit” as any revenue losing provision amending the Internal Revenue Code that provides in any fiscal year a Federal tax deduction, credit, exclusion or preference to 100 or fewer beneficiaries or a provision that provides transitional relief to 10 or fewer beneficiaries. In addition, the definition is further narrowed by listing certain instances in which a provision shall not be treated as a limited tax benefit. Further, the Line Item Veto Act directs the Joint Committee on Taxation (JCT) to prepare a statement in which the JCT will apply the definition of “limited tax benefit” to qualifying provisions in tax and reconciliation bills. The Act further provides that, if a committee on conference on a revenue or reconciliation bill includes the statement of the JCT in the bill, then the President may only use the line item veto authority to cancel provisions that have been identified by the JCT as limited tax benefits. If the committee on



conference does not include the JCT statement in the bill sent to the President, then the President may use the line item veto authority to cancel any provision which meets the definition of a limited tax benefit. In this way, the Line Item Veto Act addresses the issue of who makes the judgment call about what is and what is not a limited tax benefit subject to the line item veto. The JCT has developed a committee staff report further detailing what constitutes a limited tax benefit and the role of the JCT in the determination process.

#### B. THE PRESIDENT MUST FIRST SIGN THE LEGISLATION

As prescribed by Article I, section 7 of the Constitution, the President may sign or veto legislation or allow it to become law without his signature.

If the President wishes to use the line item veto authority to cancel a spending or tax provision from a law, he must first sign the legislation. The line item veto authority is not available to the President for use on legislation that he allows to become law without his signature or on legislation that becomes law over his veto.

#### C. THERE IS A TIME LIMIT

The Constitution grants the President 10 days (excluding Sundays) in which to sign or veto legislation.

Use of the line item veto is only available to the President within 5 days of his signature of legislation (excluding Sundays). If the President chooses to use the line item veto authority, he must send a special message to both Houses of Congress within that 5-day period.

#### D. THE PRESIDENT'S SPECIAL MESSAGE MUST CONTAIN CERTAIN INFORMATION

The President is required to send Congress a separate special message for each law from which he seeks to cancel provisions using the line item veto authority. That special message must include:

- a list, with reference numbers, of each dollar amount of discretionary budget authority, item of new direct spending, or limited tax benefit he seeks to cancel;
- determinations that the cancellations will reduce the federal budget deficit, not impair any essential government functions, and not harm the national interest;
- the reasons for the cancellation(s);
- the estimated fiscal, economic, and budgetary impact of the cancellations, to the maximum extent practicable;
- all facts, circumstances and considerations relating to the cancellation and, to the maximum extent practicable, the estimated effect of the cancellation upon the objects, purposes, and programs for which the canceled authority was originally provided;
- the adjustments that will be made to the discretionary spending limits and an evaluation of the effects of those adjustments on sequestration procedures;

- if applicable, any account, department, or establishment and the specific project for which the canceled budget authority was originally provided;
- if applicable, the specific states and Congressional districts affected by the cancellation; and
- if applicable, the total number of cancellations imposed during the current session of Congress impacting the states and Congressional districts affected.

#### E. A CANCELLATION IS EFFECTIVE UNLESS DISAPPROVED

Once the Congress has received the President's special message, the cancellation(s) takes effect. The cancellation remains in effect unless a disapproval bill is enacted into law. If a disapproval bill is enacted into law, the cancellation is nullified, making the dollar amount of discretionary budget authority, item of new direct spending, or limited tax benefit effective as of the date of enactment of the original law from which the cancellation was made.

#### F. SAVINGS FROM CANCELLATIONS MUST BE USED FOR DEFICIT REDUCTION

The Line Item Veto Act requires the Office of Management and Budget (OMB) to make adjustments to the discretionary spending limits for budget authority and outlays to reflect cancellations of dollar amounts of discretionary budget authority. These adjustments of the spending caps are "locked-in" ten days after the end of the period provided for the expedited congressional consideration of a disapproval bill, unless a disapproval bill has been enacted into law within that time. This type of "lockbox" mechanism ensures that savings—both budget authority and related outlay reductions—from a cancellation may not be used to fund any other program. If the cancellation(s) is not disapproved within the specified time period, the funds are locked away for deficit reduction. If the cancellation(s) is disapproved, the lockboxed funds are available for expenditure.

For cancellations of items of new direct spending and limited tax benefits, the Line Item Veto Act requires OMB to include a calculation of the deficit decrease resulting from such cancellations in its required periodic sequestration reports. The decreases are not, however, reflected on the PAYGO scorecard (a running account of new revenues and entitlement spending in a fiscal year). In this way, deficit reduction attributed to the cancellations may not be used to offset deficit increases attributable to other actions.

These deficit reduction or "lockbox" procedures are incorporated into the existing procedures governing discretionary spending limits and pay-as-you-go requirements under the Balanced Budget and Emergency Deficit Control Act.

### III. THE CONGRESSIONAL RESPONSE

While the President is delegated this new, limited authority, Congress has also created a specific process to review the President's actions. The Line Item Veto Act establishes certain expedited procedures for congressional consideration of the items canceled by the President. Expedited procedures provide a special

process for accelerated congressional consideration of legislation. Congress has enacted expedited procedures for the consideration of disapproval bills in the past—for example, in the War Powers Resolution, the Trade Act of 1974 and the Arms Control and Disarmament Act. Consequently, there is precedent for the expedited procedures contained in the Line Item Veto Act.

In order for the President's cancellation to be overturned, one of three things must occur: either, (1) a bill disapproving the President's cancellation must be signed into law; (2) a bill disapproving the President's cancellations must become law without the President's signature; or (3) a veto of such a bill must be overridden by the constitutionally required two-thirds majority of both Houses of Congress.

#### A. CONGRESSIONAL REFERRAL OF THE PRESIDENT'S SPECIAL MESSAGE

When Congress receives a special message, that message is referred to the Budget Committees of both Houses and the relevant authorizing or appropriating committees of each House. The special message is also required to be printed as a document of the House of Representatives and printed in the Federal Register for public availability.

#### B. THE FORMAT OF A DISAPPROVAL BILL IS SPECIFIED

In order to qualify as a disapproval bill that is subject to the expedited procedures under the Line Item Veto Act, a bill disapproving the President's cancellations must be drafted in a specified manner. Restrictions also are placed on what may be included in a disapproval bill in order to minimize any abuse of the expedited procedures granted these bills. A disapproval bill must be drafted according to the following structural example:

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105TH CONGRESS  
1ST SESSION

**H.R. \_\_\_\_\_**

A bill disapproving the cancellations transmitted by the President on \_\_\_\_\_(A)\_\_\_\_\_.

IN THE HOUSE OF REPRESENTATIVES

[Date of Introduction]

M\_\_\_\_(B)\_\_\_\_\_ introduced the following bill which was referred to the Committee \_\_\_\_ (C) \_\_\_\_ in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

**A BILL**

A bill disapproving the cancellations transmitted by the President on \_\_\_\_\_(A)\_\_\_\_\_.

- 1           Be it enacted by the Senate and House of Representatives of the United States of America
- 2   in Congress assembled,
- 3           That Congress disapproves of cancellations \_\_\_\_ (D) \_\_\_\_ as transmitted by the President
- 4   in a special message on \_\_\_\_ (E) \_\_\_\_ regarding \_\_\_\_ (F) \_\_\_\_.
-

A disapproval bill must contain the exact title and legislative language (lines 1–4) as in the example and cannot include anything else in order to qualify as a disapproval bill eligible for the expedited procedures. The statute limits the use of the expedited procedures to only those bills which disapprove any or all of the President's cancellations. This helps to ensure that matters outside the scope of the cancellations are not added to a disapproval bill and that the expedited process granted such disapproval bills is not subject to abuse or expansion. The lettered blank spaces refer to specific details regarding the particular special message by the President. The details are to be filled in the following manner.

Blank space (A) must be filled in with the date of the transmission of the relevant special message of the President and the public law to which the message relates. This is to ensure that the disapproval bill's title refers to a particular special message of the President and a particular public law.

Blank space (B) is where the sponsor and any cosponsors of the disapproval bill are listed. This is the same as current practice for all other bills introduced in the House.

Blank space (C) is where the committee or committees of jurisdiction to which the disapproval bill is referred are listed. This also follows the normal process. The committee is not specified in this example disapproval bill in order to demonstrate that a disapproval bill may often be referred to more than one committee depending on the subject matter of the cancellation. This referral process is discussed further in the section below entitled "committee referral and consideration."

Blank space (D) must be filled in with a list by reference number of one or more cancellations contained in the President's special message as referenced in the title of the disapproval bill. In the House, in order to qualify for the expedited procedures, a disapproval bill must contain a list by reference number of *all* of the cancellations contained in the President's special message. That list may be altered on the floor of the House during consideration, but in order to qualify for the expedited procedures, a House disapproval bill when introduced must disapprove each of the President's cancellations. In the Senate, a disapproval bill may qualify for the expedited procedures even if it does not disapprove upon introduction every one of the President's cancellations.

Blank space (E) must be filled in with the appropriate date of the transmission of the President's special message. This is similar to the requirements for inclusion of the date of transmission in the title of the disapproval bill.

Blank space (F) must be filled in with the public law number to which the special message relates. Again this is similar to the requirements for the title.

Furthermore, in order to qualify as a disapproval bill as defined by the Line Item Veto Act, the bill must *only* disapprove one or more Presidential cancellations of dollar amounts of discretionary budget authority, items of new direct spending or limited tax benefits contained in a special message by the President.

#### C. THERE ARE RESTRICTIONS ON THE USE OF THE EXPEDITED PROCEDURES

Congress has thirty calendar days of session in which to consider a disapproval bill under the expedited procedures. A “calendar day of session” is defined as only those days on which both the House and the Senate are in session. This definition excludes periods of recess and adjournment by either House. It is assumed that Congress will want to act quickly to consider a disapproval bill and the expedited procedures are intended to provide both Houses of Congress with the flexibility to schedule consideration of a disapproval bill during a busy legislative session.

In the House, a disapproval bill may qualify for expedited procedures only during this thirty calendar days of session time period. Once the time period expires, the expedited procedures are no longer operative. In order for a disapproval bill to be considered by the House after the 30-day period, the normal House rules would apply. This most often would involve the Rules Committee granting a special rule providing for the consideration of a disapproval bill. It should also be noted that the Rules Committee may at any time, both before and after the expiration of the thirty calendar days of session, report a special rule providing for the consideration of the disapproval bill. Should the House consider a disapproval bill under such a special rule, the use of the expedited procedures for further consideration of a disapproval bill relating to the same special message is not allowed.

If a disapproval bill considered by the House under the expedited procedures is defeated, any subsequent disapproval bill relating to the same special message of the President is ineligible for consideration under the expedited procedures. An exception exists in the case of a need for House consideration of a Senate-passed disapproval bill.

The Senate is not similarly constrained by the time period. In the Senate, a disapproval bill which began consideration under these expedited procedures may continue under such procedures even if the time period expires. In such a case, a special rule may need to be granted by the Rules Committee for further House consideration of a disapproval bill.

In the event of a final congressional adjournment before the expiration of the thirty calendar days of session period, a new disapproval bill with respect to the same message may be introduced within the first five calendar days of session of the next Congress and the thirty calendar days of session period for congressional consideration would begin anew. This new bill would qualify for the expedited procedures.

#### D. CONSIDERATION IN THE HOUSE

The Line Item Veto Act establishes expedited procedures specifically tailored to provide any Member of the House of Representatives the opportunity to obtain congressional consideration of a bill disapproving a President’s cancellations. However, the procedures do not guarantee that any one Member can get a floor vote on a particular cancellation. Allowing 435 Members unchecked access to floor time would prove quite unwieldy and unmanageable. Never-

theless, the expedited procedures do provide adequate opportunity for any Member who can muster a minimum level of support from colleagues to obtain consideration of a disapproval bill by the full House. Furthermore, these expedited procedures in no way prevent the Rules Committee from aiding a disapproval bill in this process or from altering the manner in which a disapproval bill is considered on the floor.

#### 1. INTRODUCING A DISAPPROVAL BILL

As was discussed earlier, in order for a disapproval bill to qualify for the expedited procedures, it must meet the definition and format of a disapproval bill. However, in the House it must also meet another requirement. A disapproval bill must also be introduced in the House no later than the fifth calendar day of session following the receipt of the President's special message. Any disapproval bill meeting these two requirements qualifies for expedited consideration. A disapproval bill introduced after the fifth calendar day of session would be subject to the normal rules of the House concerning the consideration of a bill.

#### 2. COMMITTEE REFERRAL AND CONSIDERATION

Upon introduction, a disapproval bill is referred, subject to the discretion of the Speaker, to the appropriate committee or committees of jurisdiction under normal House procedure. For example, a disapproval bill relating to the cancellation of an appropriation of discretionary budget authority may be referred to the Committee on Appropriations for consideration. On the other hand, a disapproval bill relating to the cancellation of an item of new direct spending involving Medicare may be referred to both the Committee on Ways and Means and the Committee on Commerce.

A disapproval bill qualifying for expedited procedures is subject to accelerated committee consideration. Any committee or committees to which such a disapproval bill has been referred has seven calendar days of session after the date of the bill's introduction in which to report the disapproval bill. The committee is not allowed to amend the disapproval bill but may report it with or without recommendation.

#### 3. OBTAINING HOUSE FLOOR CONSIDERATION

A disapproval bill is eligible for House floor consideration under the expedited procedures in two ways. First, the committee or committees of jurisdiction may report the disapproval bill within seven calendar days of session, thereby making it eligible for floor consideration under the expedited procedures.

Second, if a committee or committees to which a disapproval bill has been referred fails to report the bill within the seven calendar days of session time period, any Member of the House may move to discharge the committee or committees from further consideration of the bill. However, the Member making the motion to discharge must be in favor of the disapproval bill and can only offer the motion one calendar day after the day on which that Member declares to the House his intention to offer such a discharge motion. A motion to discharge a committee is not in order if that com-

mittee has already reported a disapproval bill with respect to the same message. In other words, once a committee has reported a disapproval bill, with or without recommendation, it is not in order for a Member to seek to discharge another disapproval bill relating to the same special message. The one day notice requirement is needed to maintain the majority leadership's ability to set the daily legislative schedule. This one day notice requirement also provides all Members of the House with an opportunity to review the disapproval bill and the issues involved before its actual consideration.

The motion to discharge is a privileged motion debatable for one hour equally divided and controlled by a proponent and an opponent. After completion of debate a vote on the motion occurs without any intervening motion. After the vote, a motion to reconsider the vote is not in order. Also, once a motion to discharge a disapproval bill has been considered by the House and either adopted or rejected, no other motion to discharge a disapproval bill with respect to the same message is in order under the expedited procedures. The House at this point has already declared its position on whether or not to consider a particular disapproval bill. If the motion is adopted, the expedited procedures for the affected bill continue. If the motion is rejected, the expedited procedures become inoperative.

Of course, a special rule can always be granted by the Rules Committee to grant floor consideration of a disapproval bill.

#### 4. HOUSE FLOOR CONSIDERATION

House floor consideration of a disapproval bill follows a process similar to that given a bill through a special rule granted by the Rules Committee. Once a disapproval bill has been discharged or reported, it is in order to move that the House resolve into the Committee of the Whole House on the State of the Union for consideration of the disapproval bill. If the bill has been reported and has laid over at least one calendar day prior to its consideration by the full House then all points of order are waived against the disapproval bill and against its consideration. This is intended to provide Members with at least one day between the conclusion of committee action and floor consideration to review the disapproval bill. General debate on the disapproval bill is confined to an hour equally divided and controlled by a proponent and an opponent of the bill.

#### 5. AMENDING THE DISAPPROVAL BILL

Upon conclusion of general debate, the disapproval bill is considered as having been read for amendment under the five minute rule. Only one motion to rise from the Committee of the Whole is allowed unless that motion is offered by the manager of the bill.

Certain requirements are placed on the amending process. Up to this point the expedited procedures have not allowed the disapproval bill to be amended. However, on the House floor the opportunity for amendment exists. In order to offer an amendment, a Member must establish that forty-nine other Members of the House support the amendment, a quorum being present. This process is similar to that contained in other disapproval procedures and



provides for a “temperature check” to determine whether or not there is sufficient support to justify the use of House floor time for consideration of the amendment. If the Member seeking to offer the amendment cannot muster the required level of support, that Member may not offer the amendment. If the level of support is sufficient, the amendment may be debated under the five minute rule.

It is important to note that restrictions are also placed on the type of amendments that may be offered. Only amendments to strike the reference number of a cancellation(s) from a disapproval bill are in order. This amendment process allows Members wishing to narrow the focus of the disapproval bill to strike the cancellation(s) they do *not* wish to disapprove. Those references they *do* wish to disapprove would remain. In other words, this is a process that allows Members to isolate a specific cancellation for an up or down vote. Since this is a disapproval process, removing a reference number from the disapproval bill is tantamount to agreeing with the President’s cancellation of that item.

The expedited procedures protect all allowable amendments from any further substantive amendment and limit the total time for the amendment process to one hour, excluding the time for recorded votes and quorum calls. It is conceivable that the entire hour of time allowed for amendments could be consumed by the consideration of only one amendment.

**FIGURE 1: SAMPLE DISAPPROVAL BILL**

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105TH CONGRESS  
1ST SESSION

**H.R. 100**

A bill disapproving the cancellations transmitted by the President on  
January 2, 1997 regarding Public Law 105-1.

IN THE HOUSE OF REPRESENTATIVES

January 5, 1997

Mr. Goss introduced the following bill which was referred to the  
Committee on Appropriations.

**A BILL**

A bill disapproving the cancellations transmitted by the President on  
January 2, 1997 regarding Public Law 105-1.

1           Be it enacted by the Senate and House of Representatives of the  
2           United States of America in Congress assembled,  
3           That Congress disapproves of cancellations #1, #2, #3, #4, and #5  
4           as transmitted by the President in a special message on January 2, 1997  
5           regarding Public Law 105-1.

**FIGURE 2: SAMPLE AMENDMENT TO BILL**

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**AMENDMENT TO H.R. 100,**

**“SAMPLE DISAPPROVAL BILL”**

**OFFERED BY: MR. SOLOMON OF NEW YORK**

**February 13, 1997**

On page 1, line 3 strike the following:

“#1, #2,” and “#4,”

{Because this bill (H.R. 100) seeks to qualify for the expedited procedures, it disapproves each of the President’s cancellations in the special message. This amendment has the effect of approving the President’s cancellations of items #1, #2, and #4, and disapproving the cancellations of (or seeking the release of funding for) items #3 and #5.}

February 12, 1997 (11:34 a.m.)

## 6. VOTING ON A DISAPPROVAL BILL

At the conclusion of consideration of the bill for amendment the Committee will rise and report the bill back to the House. Amendments adopted to the disapproval bill in the Committee of the Whole are still subject to adoption either separately or en bloc in the House. A motion to reconsider the vote on final passage is not in order.

It is important to recognize that the Line Item Veto Act is premised on an enhanced rescission model and so the actual significance of the final passage vote can be confusing. A vote in favor of the disapproval bill is a vote to reverse the deficit reduction the President sought—i.e. to increase spending or allow a limited tax benefit to take effect. A vote against the disapproval bill is a vote to agree with the President's cancellation(s).

## E. CONSIDERATION IN THE SENATE

Expedited procedures for the consideration of a disapproval bill in the Senate are also provided by the Line Item Veto Act. They help ensure that a disapproval bill approved by the House will not get bottled up in the legislative process of the Senate. While the Senate is quite different from the House in its rules and procedures, these special procedures provide some degree of assurance to the House that the Senate will consider a House-passed disapproval. For a more detailed analysis of the Senate procedures see pages 27–28 of the conference report on S. 4 (H. Rept. 104–491).

## F. A CONFERENCE REPORT ON A DISAPPROVAL BILL

Due to the different House and Senate expedited procedures for consideration of a disapproval bill, it is quite possible that the House and the Senate will not pass the same version of a disapproval bill and that a conference will be necessary. The expedited procedures also attempt, to the greatest extent possible, to accelerate the consideration of a disapproval bill by a committee of conference. Under the regular order there are no rules governing the conduct of a conference committee. However, numerous rules in both the House and Senate govern the floor consideration of a conference report.

Under the expedited procedures, a conference report on a disapproval bill can be considered by the House provided the conference report has been available to the House for at least one day prior. Debate on the conference report and any amendments in disagreement each is limited to one hour and is equally divided between a proponent and an opponent. The conference report may only include those cancellations which were in either the House version or Senate version of the disapproval bill or both. A motion to recommit and a motion to reconsider the vote on final adoption are not in order. This process is expedited from the regular process in order to maintain Congress' ability to complete consideration of the disapproval bill within the thirty calendar day of session time period.

Upon passage of a conference report on a disapproval bill, the bill is sent to the President for signature or veto just like any other bill.

## G. CONSIDERATION OF A PRESIDENTIAL VETO OF A DISAPPROVAL BILL

If the President were to veto a disapproval bill, both the House and the Senate would have to muster a two-thirds majority override vote to pass the bill as required by Article I, Section 7, Clause 2 of the Constitution. It is presumed that, if the President canceled the items from the original bill, a bill to disapprove those cancellations would be vetoed by that same President.

The two-thirds majority override vote is the hammer in the line item veto process that tilts the scales of the budget and rescissions process against spending taxpayer dollars and extending limited tax benefits. Spending money, increasing the deficit, and allowing limited tax benefits to take effect are likely to be more difficult to do as a result of the line item veto.

## IV. CHECKLIST FOR CONGRESSIONAL RESPONSE IN THE HOUSE

## HOW CAN A MEMBER REVERSE A PRESIDENT'S LINE ITEM VETO?

- Introduce a disapproval bill
  - Be sure it is in the proper form (it must include all cancellations from the President's special message)
  - To qualify for expedited procedures, introduce it within 5 calendar days of session (days both the House and Senate are in session)
- Secure floor consideration
  - If the committee(s) of jurisdiction report(s) within 7 calendar days of session, a Member may move to bring the bill up on the floor *after one day of layover*
  - If the committee(s) of jurisdiction fail(s) to report within the 7 calendar days of session, a Member may announce his intention to move to discharge the committee(s) of jurisdiction. That announcement must occur at least *one calendar day prior* to the motion to discharge
- Amend the bill
  - The only amendments in order on the floor are those that seek to *strike one or more reference numbers for cancellations* from the bill
  - In order to offer an amendment, a Member must secure the support of 49 of his colleagues, a quorum being present
  - Members may seek to narrow the focus of the disapproval bill in order to isolate one provision and increase support for the bill's passage. (Determining how to use the amendment process is a strategic decision based on a calculation of how best to disapprove a cancellation of the provision you care most about)
- The House and Senate must agree on the same disapproval bill and send it to the President
  - The President may sign the disapproval bill, allow it to become law without a signature or veto the disapproval bill
  - If the bill is vetoed, the Congress must muster a vote of two-thirds of both Houses to override

#### WHAT HAPPENS TO THE CANCELED PROVISION(S) DURING THIS PROCESS?

- The cancellation is effective *upon receipt by Congress of the President's special message*
- If a disapproval bill is enacted into law, the cancellation is null and void and the provision(s) that had been canceled take effect as of the date of enactment of the original law from which they were canceled
- If a disapproval bill is not enacted into law within the 30 calendar days of session provided for expedited Congressional consideration, the canceled provision remains canceled and ten days later the lockbox mechanism takes effect to ensure that the deficit reduction occurs

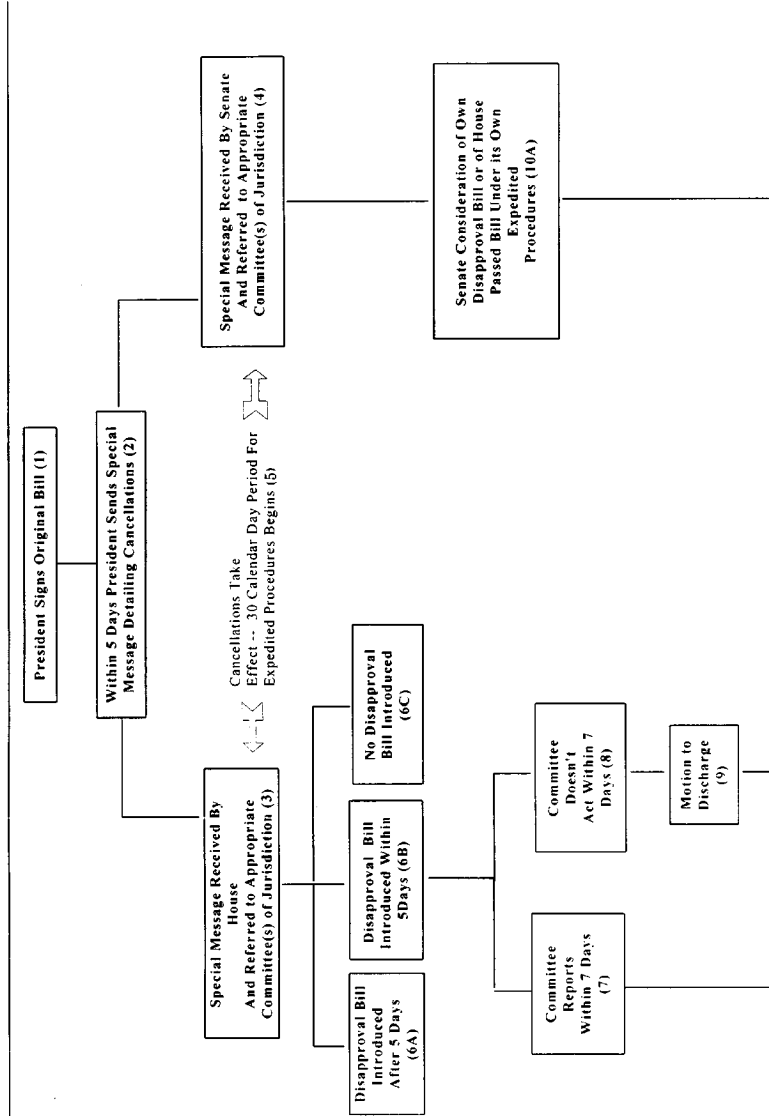
#### WHAT DOES A MEMBER'S VOTE MEAN?

- A disapproval bill seeks to *reverse the President's cancellation(s)*
- Voting *for a disapproval bill* means you oppose the President's cancellation(s); it means you wish to spend the money or extend the limited tax benefit(s) affected by the cancellation(s)
- Voting *against a disapproval bill* means you support the President's cancellation(s) and wish to reduce the deficit by saving the money or denying the limited tax benefit(s) affected by the cancellation
- Voting *for an amendment to a disapproval bill* that strikes references to one or several cancellation(s) means that you agree with the President's cancellation of those specific programs referenced

#### WHAT IS THE BENEFIT OF THE EXPEDITED PROCEDURES?

- Congress may, at any time, pass a disapproval bill relating to a President's use of the line item veto authority. However, because the cancellation(s) remain(s) in effect until a disapproval bill is enacted and because of the lockbox mechanism (which is necessary to ensure that the line item veto is used for deficit reduction), *it makes sense to seek disapproval in an expedited manner*
- In addition, the expedited procedures ensure that Congress has the ability to enact a disapproval bill in a timely manner, even though the bias in this process is tilted toward savings and deficit reduction.

Figure 3: Chart of Congressional Consideration of a Disapproval Bill



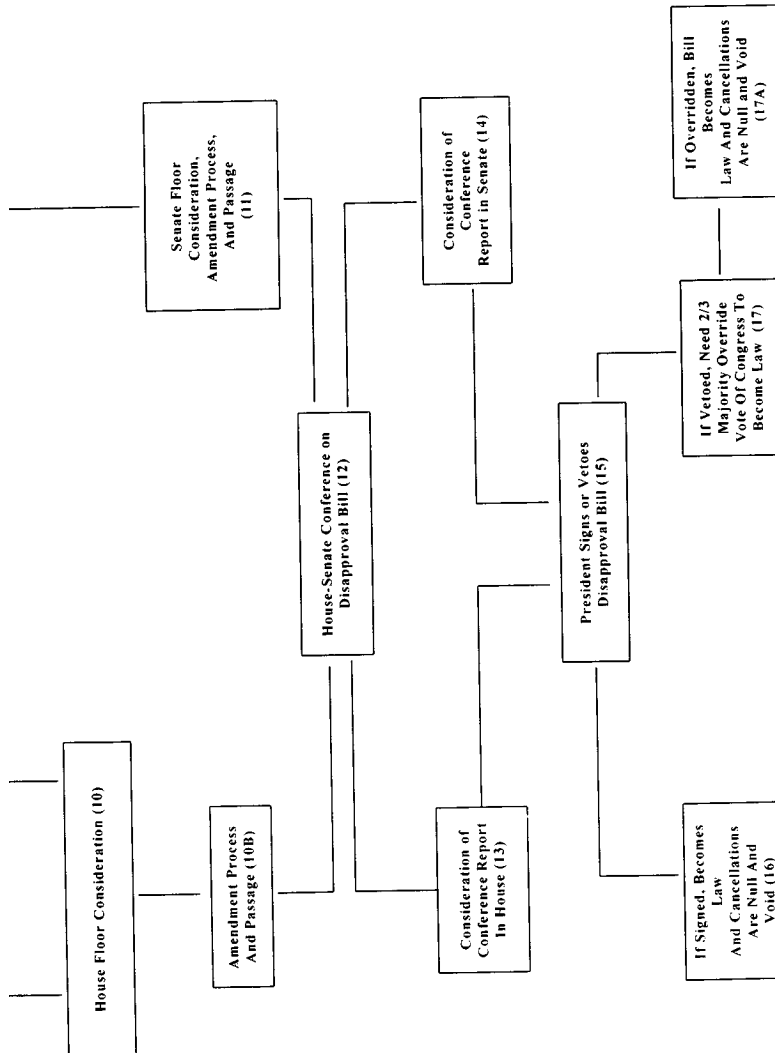




TABLE 1.—EXPLANATIONS OF STEPS OF CONGRESSIONAL CONSIDERATION

Reference numbers correspond to the numbers in figure 3

Step No.	Further explanation of actions taken
(1)	President signs original appropriation, authorization or reconciliation bill into law as authorized under Article I of the Constitution.
(2)	President cancels “items” in the original bill and sends Congress a special cancellation message within five calendar days (excluding Sundays) of the signature of the original bill. “Items” are defined by the act to only include dollar amounts of discretionary budget authority, items of new direct spending or limited tax benefits.
(3)	The special message is received by both the House and Senate on the same day. The special message is referred to the House Budget Committee and to the appropriate committee(s) of jurisdiction in the House. The special message is printed as a document of the House of Representatives. The special message is also printed in the Federal Register.
(4)	The special message is also referred to the Senate Budget Committee and the appropriate committee (s) of jurisdiction in the Senate.
(5)	The cancellations take effect when the special message of the President has been received by Congress. The 30 day time clock for Congressional consideration starts the first calendar day of session after the date of the President’s submission of the special message. A calendar day of session is a day in which both the House and the Senate are in session.
(6A)	A disapproval bill is introduced after the fifth calendar day of session and therefore does not qualify for the expedited procedures. The bill would be subject to the normal House rules for the consideration of a bill.
(6B)	A disapproval bill is introduced no later than the fifth calendar day of session, in order to qualify for the expedited procedures and is referred to the appropriate committee(s). The introduced bill in the House must disapprove all of the cancellations in the President’s message when introduced in order to qualify for the expedited procedures.
(6C)	A disapproval bill is not introduced and the President’s cancellation stands.
(7)	By the seventh calendar day of session after its introduction, the disapproval bill must be reported without amendment and with or without recommendation from the committee(s) in order to qualify for the expedited procedures. Once reported and any report on such a bill has laid over (for availability) for at least one day, the bill is eligible for House floor consideration.
(8)	One or more of the committees to which the disapproval bill may choose not to act on the bill.
(9)	If a committee or committees do not report the bill within the specified time period, any Member of the House in support of the bill may move to discharge those committees from further consideration of the bill. This motion can only be made one day after the Member making the motion has announced to the House that he intends to do so. All points of order are waived against the motion. The motion is debatable for one hour equally divided and controlled and is not amendable. Only one motion to discharge is allowed for floor consideration for each disapproval bill. For example, if such a motion is defeated, it is not in order to consider another motion to discharge for that bill.
(10)	Once committee(s) have either reported or been discharged from further consideration, the bill is eligible for consideration by the House under expedited procedures with certain restrictions. The bill is debatable for one hour equally divided and controlled. All points of order are waived against the bill except that relating to the layover requirement.
(10A)	The Line Item Veto Act provides expedited consideration of the disapproval bill in the Senate. For further details regarding these procedures consult pages 27–28 of the conference report on Public Law 104–491.
(10B)	The disapproval bill is eligible for amendment on the floor of the House. The disapproval bill has not been amendable up to this point in the expedited procedures. Any Member who can demonstrate the support of 49 other Members, a quorum being present, for an amendment may offer that amendment. However, amendments to the bill can only strike a reference number(s) from the disapproval bill. The bill is read for amendment under the five minute rule and the entire time period for the amendment process is limited to 1 hour.
(11)	If the Senate completes consideration of a disapproval bill and it is different than that passed by the House, there may be a conference with the Senate to resolve the disagreement. If the Senate passed version is identical to that passed by the House, the bill is ready to go to the President for signature.
(12)	If there is disagreement between the two houses, a conference is to be convened promptly.
(13)	Consideration of any conference report and any amendment in disagreement on a disapproval bill is also given expedited consideration in the House. Such conference reports and amendments are each debatable for one hour equally divided and controlled. Upon passage the bill proceeds to the Senate or to the President.
(14)	Consideration of any conference report on a disapproval bill is also given expedited consideration in the Senate. Refer to page 28 of the conference report on Public Law 104–491 for further details.
(15)	Upon passage of both Houses, the disapproval bill is sent to the President for signature. The President has the Constitutional ten calendar days in which to make this decision.
(16)	If the President signs the disapproval bill, the disapproved cancellations do not take effect.
(17)	If the President vetoes the disapproval bill, Congress needs a two-thirds majority of both Houses to override the veto. If override occurs, the cancellations are nullified. If override fails, the cancellations remain in effect.